

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

WILLIAM MONROE,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-06-635-M
)	
GREG HAMILTON, Sheriff,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

The Plaintiff has initiated the present action under 42 U.S.C. § 1983. The matter has been referred to the undersigned for preliminary review and submission of findings and recommendations. Order (June 13, 2006). For the reasons set forth below, the undersigned recommends dismissal of the action without prejudice to refiling.

The Court granted pauper status on June 14, 2006, and ordered an initial payment of \$4.00 toward the filing fee. Order at pp. 1-2 (June 14, 2006); *see* Prison Litigation Reform Act, 28 U.S.C. § 1915(b)(1)(A)-(B). The deadline for this payment was July 5, 2006. Order at pp. 1-2 (June 14, 2006). This Court warned Mr. Johnson: “Plaintiff is advised that unless by [July 5, 2006] he has either (1) paid the initial partial filing fee, or (2) shown cause in writing for the failure to pay, this action will be subject to dismissal without prejudice to refiling.” *Id.* To date, the Plaintiff has not made the \$4.00 payment or demonstrated good cause for his failure to pay.

The record does not reflect any excuse for Mr. Monroe’s failure to pay. In his application for pauper status, he attached a certificate reflecting \$20.00 as his average

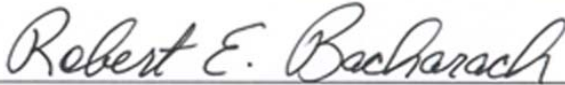
monthly balance and \$20.00 as his average monthly deposits for the past six months in his prison account. Application to Proceed *in Forma Pauperis* at p. 3 (June 12, 2006).

Although Mr. Monroe knew of the payment deadline and was apparently able to pay the \$4.00, he has not submitted any monies to the Court or requested an extension of time. In these circumstances, the Court should dismiss the action without prejudice to the filing of a new suit. *See Cosby v. Meadors*, 351 F.3d 1324, 1326-33 (10th Cir. 2003) (upholding dismissal of a federal inmate's civil rights complaint based on noncompliance with orders requiring installments on the filing fee or to show cause for the failure to pay).

The Plaintiff is advised of his right to object to this report and recommendation by August 3, 2006. *See* W.D. Okla. LCvR 72.1(a). If the Plaintiff does object, he must file a written objection with the Court Clerk for the United States District Court, Western District of Oklahoma. The Plaintiff is further advised that if he does not timely object, he would waive his right to review by the Tenth Circuit Court of Appeals. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

The referral is terminated.

Entered this 14th day of July, 2006.



Robert E. Bacharach
United States Magistrate Judge